



September 20, 1999

Ms. Katherine Cahill
Senior Counsel
San Antonio Water System
P.O. Box 2449
San Antonio, Texas 78298-2449

OR99-2625

Dear Ms. Cahill:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 127415.

The San Antonio Water System ("SAWS") received a request for the following information pertaining to the December 31, 1998 Water Supply Contract between the Aluminum Company of America and SAWS:

1. A list of all attorneys who read the contract;
2. The law firm or organization each attorney is affiliated with;
3. The scope of work performed by each law firm/attorney;
4. The amount of time each law firm/attorney billed for reading the contract and how much they were paid; and
5. The written opinion of each law firm/attorney.

You state that SAWS will make items 1-4 available to the requestor. You contend, however, that information responsive to item 5 is excepted from required public disclosure pursuant to sections 552.104, 552.105, 552.107, and 552.111 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the information submitted in category 1 and some of the information submitted in category 2 were the subject of Open Records Letter No. 99-2092 (1999). That prior ruling concluded that said information is excepted from public disclosure under section

¹We note that you have withdrawn your section 552.110 claim.

552.111. Thus, you may withhold the previously submitted information in accordance with Open Records Letter No. 99-2092. We have marked the information that was the subject of Open Records Letter No. 99-2092 for your convenience.

We next consider the remaining information that was not addressed in the prior ruling. Section 552.111 excepts from disclosure inter-agency or intra-agency communications consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body. *See Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ); Open Records Decision No. 615 at 5 (1993). Section 552.111 does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. Open Records Decision No. 615. This exception applies not only to a governmental body's internal memoranda, but also to memoranda prepared for a governmental body by its outside consultant. Open Records Decision Nos. 462 at 14 (1987), 298 at 2 (1981). The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). We have reviewed the remaining information and conclude that the information consists of opinions and recommendations of proposed contract terms. Thus, you may withhold the remaining information in category 2 under section 552.111.

As we resolve your request under section 552.111, we need not address your other claimed exceptions. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 127415

Encl.: Marked documents

cc: Mr. Bob Martin
President
Homeowner-Taxpayer Association of Bexar County, Inc.
6323 Sovereign, Suite 187
San Antonio, Texas 78229
(w/o enclosures)